5 Rs. COURT FEE ५ रु. भारत INDIA पाँच रुपये FIVE RUPEES
10 Rs. COURT FEE १० रु. भारत INDIA दस रुपये TEN RUPEES
10 Rs. COURT FEE १० रु. भारत INDIA दस रुपये TEN RUPEES
CF0000110053

CANCELLED

Jabalpur Bench (Cir-II)

BEFORE THE HON'BLE HIGH COURT OF MADHYA PRADESH
AT JABALPUR.

M.P.No. 12 / 90

The Managing Director,
Steel Authority of India Ltd.,
Bhilai Steel Plant,
B H I L A I. ... PETITIONER.

VERSUS.

1. The State Industrial Court of MP
Raipur Bench,
RAIPUR.

35

2. Gurubux Singh,
Ex.Chargeman,
Qr.No. I/B,Street 23,
Sector-VIII, BHILAINAGAR.

3. Naujadik Singh,
Chargeman,
Qr.No. 8/B,Street 3,
Sector-I, BHILAINAGAR.

4. K.Baby,
Qr.No. 3, H.No. 283,
Smriti Nagar,
BHILAINAGAR.

5. K.S.Kalra,
Qr.No. 1/B, Street No.35,
Sector-V,BHILA INAGAR.

6. J.C.Sharma,
Qr.No. 3/B,Street No.25,
Sector-IV BHILAINAGAR,
Distt : Durg M.P. ... RESPONDENTS.

Filed on 2-1-90
RK Singh
2-1-90

PETITION UNDER ARTICLE 226/227
CONSTITUTION OF INDIA FOR GRANT
OF WRIT OF MANDAMUS/CERTIORARY.

The Petitioner named above submits as under :

Contd....2/-.

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

W. P. No. 12 OF 1990

Petitioner : The Managing Director,
Steel Authority of India Ltd.,
Bhilai Steel Plant,
Bhilai.

Versus

Respondents : The State Industrial Court of MP
Raipur Bench,
RAIPUR.
& 5 others.

Shri N.K. Vyas, counsel for the petitioner.
Shri P.S. Koshy, counsel for respondents No.2 and 3.

ORAL ORDER

(22nd February, 2006)

1. This petition is filed by the Steel Authority of India Limited, Bhilai Steel Plant, praying that the order dated 24.7.1989, passed by the Industrial Court in Case No. 7/MPIR/88, be quashed and the order dated 4.12.87 passed by the Labour Court in case No. 116/MPIR/83 be restored.

2. The admitted facts in nutshell are that the respondents No.2 and 3, were appointed as Loco Driver Trainee, vide order dated 26.8.59 (Annexure A-1), along with one shri Gurudev Singh. The order dated 26.8.59, provided that the respondents No.2 and 3, along with Gurudev Singh and others who were appointed as Loco Driver would be absorbed as Loco Operator on the operation side, in the grade and scale of pay as sanctioned for this category in the operation on passing the final test.

3. The respondents No.2 and 3 passed final test in November 59. However, the petitioner by order dated 20.8.1960, absorbed them w.e.f. 1.8.1960 and not w.e.f. November 1959.

4. Being aggrieved, Shri Gurudev Singh who was selected as Loco Driver Trainee, vide order dated 26.8.59, along with respondents No. 2 and 3, moved the Labour Court, in case No.63/MPIR/80, under section 31(3) read with section 61 of the M.P. Industrial Relations Act, 1960, seeking declaration that they should be declared to have been absorbed on the post of Loco Driver w.e.f. 21.10.58.

5. Learned Labour Court, by judgement and order dated 11.12.80 (Annexure A-IX), allowed the application, partly and held that Shri Gurudev Singh was entitled to seniority as Loco Driver w.e.f. 1.12.59 and to the post of Loco Inspector w.e.f. 1.1.63.

6. The present petitioner challenged order dated 11.12.1980 passed in case of Gurudev Singh by the Labour Court before the Industrial Court. The case was ultimately reached to the High Court. The High Court, by order dated 12th July, 1985 passed in M.P. No. 44/83 filed by Gurudev Singh, held as under:

> "For the reasons stated above, the petition is allowed. The order dated 11.12.1980 (Annexure-B) in so far as it refused the claim of the petitioner for difference of pay is quashed. So also, the order dated 18.8.1982 (Annexure-C) of the Industrial Court dismissing the revision of the petitioner is quashed. It is declared that in addition to the reliefs granted to him by the labour Court under its order dated 11.12.1980 (Annexure-B) the petitioner is also entitled to the relief of difference of pay on the basis that he became entitled to hold the post of Loco Driver with effect from 1.12.1959, Loco Inspector with effect from 1.1.1963, Chargeman (P) in the scale of Rs. 325-475

with effect from 1.7.1964 and Chargeman (P) in the scale of Rs. 650-1000 with effect from 31.12.1977. It is directed that the management of Bhilai Steel Plant shall pay the difference or pay to the petitioner on the abovesaid basis within three months from today. There shall, however, be no order as to costs of this petition. The outstanding securing amount shall be refunded to the petitioner."

7. The present respondents No. 2 and 3, being similarly situated and have been appointed as Loco Driver Trainee along with Gurudev Singh, on 28.8.59, filed an application under section 31(3) read with section 61 of M.P. Industrial Relations Act, 1960, being Labour case no. 116/MPIR/83, learned Labour Court vide order dated 4.12.87 (Annexure A-5), rejected the said application filed by the respondents No. 2 and 3, on the ground that the application was barred by time as well as on merit. Being aggrieved, respondents No.2 and 3, filed an appeal under section 65 of M.P. Industrial Relations Act, before Industrial Court Bench at Raipur, being appeal no. 7/MPIR/1988.

8. Learned Industrial Court on the question of limitation held that the application was filed in time and on merit, learned Court observed that the management in its communication dated 28.8.68, (Annexure A-VIII) informed the respondents No. 2 and 3 (appellant therein) that the grievance committee of the petitioner had decided to settle the dispute of the respondents No. 2 and 3, on the same line as would be decided by the management as a matter of policy as such case of Shri Gurudev Singh Loco Driver.

9. Accordingly the Industrial Court allowed the appeal on 24.7.89 (Annexure A-7) and directed the petitioner herein management to grant the same relief which has been granted to Gurudev Singh

in the judgement and order dated 12th July, 1985, passed by the High Court of Madhya Pradesh, at Jabalpur, in M.P. No. 44/83, within a period of six months.

10. The management/petitioner herein, filed the present petition under Article 226/227 of the Constitution of India, praying that the impugned order dated 24.7.89, passed by the Industrial Court in appeal No. 7/MPIR/88, be quashed and the order dated 4.12.87, in case no. 116/MPIR/83, passed by Labour Court be maintained.

11. Shri N.K. Vyas, learned counsel for the petitioner, submits that the respondents No.2 and 3, cannot be granted same relief as has been granted to Shri Gurudev Singh, as Shri Gurudev Singh came from other department and he was scrapper operator, respondent No. 2 was truck driver and respondent No.3 was crane operator.

12. Shri P.S. Koshy learned counsel for the respondents No. 2 and 3, submits that the present stand taken by the petitioner is contrary to the terms and conditions of the appointment order dated 26th August, 1959, which does not distinguish grant of absorption on the basis of their designation and on the basis of previous service.

13. Learned counsel further, submits that the case before the Industrial Court was that the same relief would be granted to the respondents No. 2 and 3, as decided by the High Court of Madhya Pradesh, at Jabalpur, in case of Gurudev Singh in M.P. No. 44/1983. Admittedly, the order dated 12th July, 1985 passed by High Court of Madhya Pradesh, at Jabalpur, in M.P.No. 44/1983, has attained finality as it has not been challenged in the

Superior Court. The stand of the petitioner is contrary to the facts and understanding given to the respondents No.2 and 3, in communication dated 28.8.1968 (Annexure A-8). Even otherwise, this Court while exercising its power in exercise of Jurisdiction under Article 226/227 of the Constitution of India, has very limited scope.

14. In the present case, petitioner has not pointed out any perversity or illegality in the impugned order indicating that the decision was contrary to provisions of law.

15. I have heard learned counsel for the parties and I have perused the documents appended to this petition and return including the order dated 26.8.59 and communication dated 28.8.68 (Annexure P-8). There is no illegality or perversity in the order passed by Industrial Court, so as to call for interference with the impugned order.

16. In view of foregoing, the petition is dismissed. No order as to costs. The petitioner is directed to comply with the order forthwith, preferably within a period of 30 days from today. The respondents are further directed to make payments with interest @ of 6% per annum from the date the impugned order was passed, till the same is paid to the respondents.

Sd/-
Satish K. Agnihotri
Judge